

### **REMARKS**

The application contains claims 9-12. The basis for amendments to claim 12 can be found on page 12, line 19 to page 13, line 3 and page 13, line 16.

1. Claims 9-12 have been rejected under 35 USC 112, first paragraph, by the Examiner as not being enabled for "solvate." In view of the amendment to the claims this rejection is now moot.

2. Claims 11 and 12 have been rejected under 35 USC 112, first paragraph, by the Examiner as not complying with the enablement requirement with respect to the term "neurological diseases." In view of the amendment to claims 11 and 12 this rejection is now moot.

3. Claims 9-12 are rejected under 35 USC 112, second paragraph, for the following reasons:

a. Claim 9 recites "said cycloalkyl, aryl, heteroaryl and heterocycyl groups in the definition of the substituents on R<sup>3</sup> lack sufficient antecedent basis.

Applicants have amended to provide proper antecedent basis.

b. The phrase "e.g." is purported to render claim 9 indefinite. Applicants have deleted this phrase from the claim.

Therefore, this rejection claims 9-12 under 35USC second paragraph is now moot.

4. Claims 9, 11, and 12 have been rejected under 35 USC 102(e) as being anticipated by Braje et al., US Patent No. 2005/0137,186 by the Examiner. It is the Examiner's position that Braje teaches the compounds, compositions, and method of use of the compounds of formula (I) where R<sup>1</sup> is cyclopropyl or cyclopentyl; R<sup>2</sup> is H or 4-trifluoromethylphenyl; R<sup>4</sup> is H; X is a bond or SO<sub>2</sub>; and n is 0 as set forth in Table 2, compounds 2 and 3, Example 23 and 24. Claim 9 has been amended such that X is no longer SO<sub>2</sub> and Claim 10 has been amended accordingly. Therefore, this rejection of the claims is now moot.

5. Claims 9, 11, and 12 have been rejected under 35 USC 102(b) as being anticipated by Himmelsbach et al., WO 96/05194. It is the Examiner's position that Himmelsbach et al. teaches the compounds, compositions, and

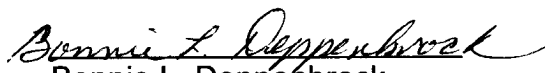
method of use of the compounds of formula (I) where  $R^1$  is cyclopropyl;  $R^2$  is H;  $R^4$  is H; X is a bond; and n is 0 as set forth on page 57 paragraph (1).

The Examiner's attention is drawn to the proviso in current claim 9 (last two lines) wherein the compound set forth on page 57 paragraph (1) of WO 96/05194 to Himmelsboch et al. has been excluded from the scope of the claim. Therefore, this rejection of the claims is improper and should be withdrawn.

It is respectfully submitted that the present application is in condition for allowance. The Examiner is invited to contact the undersigned to discuss this case if desired

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge any fees or credit any overpayment, particularly including any fees required under 37 CFR Sect 1.16 or 1.17, and any necessary extension of time fees, to Deposit Account No. 07-1392.

Respectfully submitted,

  
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